G. R. S. 58]

Previous references.

1900.

~~191~~

(9. 4)

File No. 71 of 1900

Serial Nos. 1-7

Later references.

P: 30

GENERAL AND REVENUE SECRETARIAT

consolidated file

Serial Nos. 1-4

Part B for June 01

SUBJECT.

Re- fund of stamp duty, penalty to Akkamma

W D 1351—GPB—20,000—13-12-15

Docketed

SECRETARY'S OFFICE.

REVENUE BRANCH

OFFICE NOTE.

SUBJECT. Regarding the refund of an amount Rs 10/8 to one Akkamma, Bangalore city, being the amount levied on account of penalty, Stamp duty and registration fee on a document.

LAST REFERENCE Letter No. 2742 dated 12/6/01

from Pudipak Lakshminarniah (advocate) No: 410 Avenue Road, Bangalore.

An instrument was executed on 26-7-97 in favour of one Akkamma by her brother Munisamanna and her maternal uncle Pillappa to the following effect

"At your request we have given you the mud-roofed room of 2 Ankanams for your residence during your life time. After your death it is to revert to us and none of your heirs should claim it. In case of your or their dispute during or after your life-time

you or your heirs will be liable for all our costs and damages. In case of a misunderstanding between you and us during your life time you will accept Rs 50/- from us and quit the room. You will have no right to alienate it either by way of gift, sale or mortgage. The Kharar we entered into on the 23rd July 1897 is hereby cancelled by reason of our Thakrar and it is immaterial with whomsoever it lies."

This instrument was presented before the Sub-Registrar, Bangalore city for registration, who doubtful as to the value of the stamps which the above instrument had to bear appears to have sent it on to the ~~Registrar~~ District-Registrar for his opinion The ~~Registrar~~ District-Registrar considering that the eight annas stamp which the instrument bore was insufficient, seems to have ordered the Sub-Registrar to levy an additional duty of eight annas, a penalty of Rs 5/-, and another five rupees, registration fee, as the house in question was not valued.

The deficient stamp duty and penalty.

penalty were accordingly recovered on 10/1/98 and the additional fee for registration on 5/3/98.

Subsequently a petition seems to have been submitted to the District Registrar, Bangalore praying for the refund of the ~~value of duty excess~~ stamp duty, penalty of Rs 5/, and the five rupees registration fee collected in excess. The Dist: Registrar appears to have endorsed it through the Sub-Registrar, observing that the stipulations "we have given you the room for your residence during your life time. In case of a misunderstanding between us you will accept Rs 50/- from us and quit the room" constitute two distinct statements liable to an additional duty and a penalty and that as the room was not properly valued, an additional

amount-

amount of Rs 5/- for registration should be levied

There upon the petitioner contended that the instrument was a settlement that it did not contain two distinct statements and did not require two duties; that the house was valued at Rs 50 and that consequently the levy of an additional amount of Rs 5/ as registration fee was not necessary; and prayed for the refund of duty, penalty and registration fee levied in excess

In reply the petitioner was informed that the matter had been finally disposed of before

Against the petitioner insisting upon his claim sent in 3 other applications praying for the authority of the Dy Comr on which he based his decision; but they were all met with the same plea.

Now the petitioner Submits

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to grant an appeal against the decision of the Dy Comr and prays for the refund of Stamp duty, penalty, and registration fee collected in excess and for the payment of his costs. His grounds of appeal are as follows:-

1) that the instrument is a settlement within the meaning of the Stamp Act, and falls under Sec 2 para 24, and art: 56 Schedule I:

2) that the Dy Comr failed to show him the authority by which he levied extra duty, penalty, and registration fee amounting to Rs 10/8.

Para 24 sec 2 of the Stamp Regulation referred to by the petitioner defines "settlement" as any non testamentary disposition, in writing, of moveable or immoveable property made -

(a) in consideration of marriage,

(b) for the purpose of distributing property of the settlor among

among his family or those for whom he desires to provide, or for the purpose of providing for some person dependant on him, or

(c) for any religious or charitable purpose:

and includes an agreement in writing to make such a disposition

Article 56 Schedule I. lays down that the duty leviable on an instrument of settlement is the same as Bond (no 14) for a sum equal to the amount or value of the property settled as set forth in such settlement. Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.

Now the value of the property settled is not set forth in the bond. Rs 50/- is only a consideration worth

7

work the interest in the property of the person with whom it is settled and does not appear to be the value of the property settled as represented by the petitioner.

In holding the stipulations set forth in the instrument as two distinct statements the Board seems to have acted under Sec 5 of the Stamp Regulation Act of 1901 which ~~has down~~ reads as follows:-

"Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Regulation.

To the Secretary
Sub^d for orders.

21. V.
27/8/01

V
27/8/01

The instrument must be viewed as a settle

8

ment and 8 As Stamp
was quite sufficient
The excess levied & penalty
may be refunded by
Govt under S. 45 Cl. 2
of the
Stamp Act.

The registration fee also
~~should~~ was excessively
levied. The document
cannot be said to be
one in which no value
is mentioned. But I
believe ~~the Govt~~ Govt
is the authority to
refund. Refer the rules
& if Govt can do so,
the refund may be
sanctioned. Submit
with refces on the latter
point to the 3rd Councillor

13/9/1901

Subd:

Please see Sec: 70 of the Registration
Act.
14/9/01

Submitted to the
3D Councillor
14/9/01

14 9 01
(129)

9

[illegible]

18/9.

[illegible]

Submitted with draft.
26/9/01

Submitted
21.6.01
22

No. 71 of 91

No. 1

Transferred to Revn Branch 28/6/01

(1)

DEPARTMENT OF REVENUE
G.L. No. 820
JUN 28 2001
DEVAN

190/

No. 2742

Name of Petitioner Pulipak Lakshmi Narain (advocate)

Village Door No. 410 Avenue Road - Banglore

Taluk

District

Date of Arzi 12-6-01

Date of Receipt 14-6-01

Date of Disposal

No. of Enclosure 7

Please send copy of stamp regulation of 900.
dsr. 12/7/01

Petitioner present. Submitted with office note.
dsr. 17/7/01

Again 27/7/01

ABSTRACT

Appeals against the order (Instr. no. 537 of 9-5-01) of the Stamp Collector Bangalore District directing the recovery of Rs. 60/- on the document (no. 165) presented by A.K. Kamma on account of penalty Stamp duty and registration fee

The Endorsement is as follows

Endorsement no. 276 of 20-3-01 has already been issued informing you that as the matter has been previously disposed nothing more could be done in the matter.

The above Endorsement refers to this Endorsement no 266 of

MGCPB—23-3-01—3,000.

21/7/01

18-12-00 which is as follows :-

It is understood from Endorsement No. 45 of 6-9-00 given by you by the Sub Registrar that the document referred to having once been received in this office duly and penalty were recovered on it. There is no ground to interfere with the said decision -

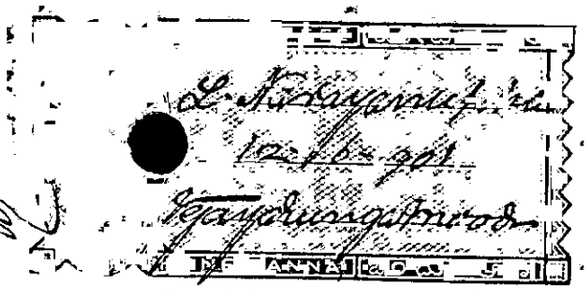
The petitioner urges :-

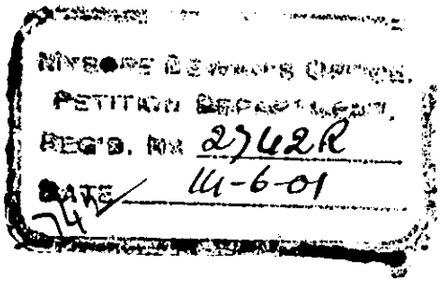
The document above referred to was presented under para 24 Section 2 of the Stamp act and in accordance with Column 56 of Schedule No. 1. He has produced the document.

As the Stamp Collector did not give him the copy of the order showing under what rules he decided to levy duty and penalty and gave him the above Endorsements he prays that orders may be passed for the refund of the duty, penalty & registration fee and for payment of the cost.

Enclosures
Sub Registrars Endt. No. 45
Ditto - do — No 216
Power of Attorney
Endt. No. 495
Do - No 534
Document
20/9/20-3-01

20/8/01




MYSORE DEWAN'S OFFICE.
PETITION SECTION.
REG'D. No 2742R
DATE 14-6-01

(3)

4

Case no. 209: 532
Bail-pet no
22-4-97.

5

P. Sita Ramiah

Bangalore

L. Satyanarayana
20-3-1901
Jagapathungamoodi

9

10

11

15/12/1800

ಅಂಚೆ ಇಲಾಖೆ 32

ಕಾಲಾಳುಗಳು 276

12

ಸೆಕ್ಷನ್ 276

ಕಾಯ್ದೆಯ ಕಲಂ 276 ರಡಿ ಪ್ರಕರಣ

ಆರೋಪಿಯು ಮೇಲ್ಕಂಡ ಅಪರಾಧವನ್ನು ದಿನಾಂಕ 6.9.1900 ರಂದು 45 ನೇ ಎಸಿಎಂಎಂ ಬೆಂಗಳೂರು ನಗರದಲ್ಲಿ ಎಸಗಿರುವುದಾಗಿ ಆರೋಪಿಯ ಮೇಲೆ ಆರೋಪಣೆ ಮಾಡಿದ್ದು ಆರೋಪಿಯು ಆರೋಪಣೆಯನ್ನು ನಿರಾಕರಿಸಿರುವುದರಿಂದ ಸಾಕ್ಷ್ಯ ವಿಚಾರಣೆಯನ್ನು ದಿನಾಂಕ 18.12.1900 ರಂದು ನಿಗದಿಪಡಿಸಿದೆ.

C. Subramanyam
for Dy Commr
Bangalore City

M. Srinivasachar

14

15

No. H 552

MYSORE DEWAN'S OFFICE.

Dated Bangalore, the 4th October 1899

ENDORSEMENT GRANTED TO Pulipak Lakominarniah (Advocate), Door no: 410, Avenue road, Bangalore.

in reply to his Petition Registered No 2742 dated 12/6/1901 praying for the refund of the excess Stamp duty, penalty and extra-registration fee levied under the orders of the Stamp collector, Bangalore District, on an instrument presented for registration.

Petitioner is informed that the Govt agree that the document is only a settlement liable to Stamp duty under article 56 Schedule I of the Stamp Regulation, and that Rs 50/- is the value of the property settled as represented by the petitioner. The levy of excess Stamp duty and penalty as well as extra-registration fee was unwarranted. The excess Stamp duty and penalty will be refunded to the petitioner. The question of refund of the Excess registration fee levied is one for disposal under Sec: 70 of the Registration Act.

By Order,

H.D. 4/10/99

for Secretary.

16

Section Q-7
File No 71 of 900
Serial No 3

No H 549-518-5/10/01

~~Petition~~ Draft

Read Petition No: 27428/12/6/07 from Putlipak Lakominarayanaiah, Advocate, Bangalore city, appealing against the order of the Stamp Collector, Bangalore District

Order thereon.

An instrument (as quoted in the Margin) was executed on 26-7-97 in favour of one Akkamma by her brother Munisamappa and her paternal uncle Pillappa ~~to the following effect.~~

"At your request we have given you the undivided room of 2 Ankanams for your residence during your life time. After your death it is to revert to us and none of your heirs should claim it. In case of your or their dispute during or after your life-time, you or your heirs will be liable for all our costs and damages. In case of a misunderstanding

between you and us during your life time you will accept Rs 50/- from us and quit the room. You will have no right to alienate it either by way of gift, sale or mortgage. The Karar we entered into on the 23rd July 1897 is hereby cancelled by reason of our Thakrar, and it is immaterial with whom-soever it lies

The Sub-Registrar, Bangalore city, before whom it was presented for registration was doubtful as to the value of the Stamp which the instrument had to bear and sent it on to the District Registrar for instructions. The ~~District~~ Registrar ordered the Sub-Registrar to levy an additional duty of 8 annas and a penalty of Rs 5/- as he considered the instrument to consist of two distinct agreements ~~Stats~~ liable to two duties as well as an additional amount of Rs 5/- registration

18

fee as the room was not properly valued. ~~Hence the appeal to Govt under Reference~~

Thereupon, the party has presented this ~~appeal to Govt~~.

The Govt agree that the document is a settlement liable to duty under art. 56 Schedule I of the St Regn, and that Rs 50/- is the value of the property settled as represented by the petitioner. The levy of excess stamp duty and penalty as well as the registration fee was unwarranted. ~~Hence~~ The excess stamp duty and penalty will be refunded to the petitioner.

Sd/- Secretary. 24/9/01

The question of refund of the excess registration fee levied is one for disposal under the Govt's Rules in force

Vide (1)

To The Stamp Collector, Bangalore District

~~To the Advocate General~~

To The Comptroller, Mysore Govt.

To The Inspector Genl of Registration.

Issue H.D. 3/10/01.

17

REVENUE DEPARTMENT
Gl. No. A 577
CT. 3
FROM No.

1901/1902

Dy. Commissioner,
Bangalore District.

Section	G. F
File No	71 F-00
Serial No	11

To

The Secy to the
Govt of Mysore
Rev: and Genl Depts

Dated 21st } November 1901
Despatched 22nd }

Received

General No.

D No.

Enclosure No.

Circl Rev: No H 549-51 of
the 5th October 1901.

Requesting to return the
instrument referred to in
the above.

Return
R
23.11.01

Refers to
Asst
26/11/01. Ans
27/11
Sent with draft
ans
3/12/01

Dis. No. 598

Bangalore District 90
Deputy Commissioner's Office
Bangalore 21st November 1901

From,

M. D. Narayan Rao Esqr
Deputy Commissioner
Bangalore District

To,

H. V. Ranjundayya Esqr MA LL
Secretary to the Govt of Mysore
Revenue Department

With reference to Government Proceedings No. H 549-51 of the 5th October 1901, ordering the refund of the levy of excess Stamp duty and penalty on a certain document, I have the honour to request the favour of your kindly returning the instrument referred to therein.

I have the honour to be
Sir
Your most obedient Servant

Deputy Commissioner
Bangalore District

Subd. with reference. This may be ordered to the files.
13/12

21 6793/28-XI-01 1901 1769

From P. N. Srinivasa Esqre B.A.
Inspector General of Registration

To H. V. Nanjundayya Esqre M.A. M.L.
Secretary to the Government of Mysore, General and Revenue Departments

Dated 26th

Despatched November 1901

Received

General No. 576
No.

Enclosure No.

DEPARTMENT
Vol. 205
NOV 30 1901

Draft Subd
16/12/01

Section 9-7
21/1/02
5

Stating that under the circumstances stated the Inspector General has ordered the refund of the excess registration fee of Rs 5/- recovered in respect of a document executed in favor of one Akkamma.

Rupees 21.14.-
30.11.01

MGOPB—3-3-01—50 reams.

3/-

No 516

22

Office of the Inspector General of
Registration in Mysore.
Dated, Bangalore, 26th November 1901.

From

P. N. Purnaiya Esquire, B.A.,
Inspector General of Registration in Mysore.

To

H. V. Nanjundayya Esquire, M.A.M.L.,
Secretary to the Government of Mysore,
General and Revenue Departments.

Sir,

With reference to Government Proceedings No. Fl. 549-51 dated 5th October 1901, passing orders on the appeal presented by one Lakshminaraniah against the order of the Deputy Commissioner, Bangalore District, in a stamp case, I have the honor to state that the excess registration fee cannot be refunded to the party under Section 70 of the Registration Act as it relates only to refund of penalties under Sections 24 and 34 and that as observed by the Government, orders have been today issued to the District Registrar to refund the extra amount in question under the powers of general supervision conferred on the Inspector General by Section 69 of the Act.

I have the honor to be,
Sir,
Your most obedient servant

P. N. Purnaiya

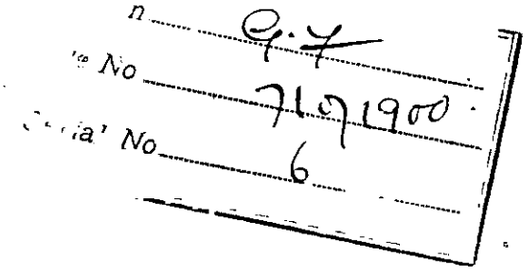
Inspector General of Registration.

R.S.R.

2.3 Draft as per letter

2

The Dy Comr
Bangalore Dist.



Dated 5-12-01

No: H 783 Gl.

His no: D. 598 dated 21st Nov 1901 requesting return of the deed referred to in G. P. No: H 549-51 dated 5/10/01.

With reference to the above I have the honour to return herewith the instrument called for.

D. O
4/12/01
for Secretary
3/12/01

Trans Sh 30+31 Sch-12

24

Draft as per orders

Section G.7
File No 7147 00
Serial No 1

Read:- Letter no: 5-16 of 26/11/01 from the Inspector Genl of Registration in Mysore, stating with reference to G.P. No 7L 549-51 of 5/10/01 passing orders on the appeal presented by one Lakshminaraniah against the order of the Dy Commr Bangalore Dist in a Stamp case, that, ~~as observed by the Govt in the above,~~ he has issued orders to the District Registrar to refund the excess registration fee levied in the case under Sec: 69 of the Registration Act.

No 7L. 891 of 6/1/02

Order thereon

Recorded.

16/12/01 Secretary.

13/12/01

To the Inspector Genl of Registration in Mysore.